

a size substantially more conspicuous than that of the descriptive or explanatory information.

(2) Containers of 187 milliliters or less. All mandatory information required on labels by this part, except the alcoholic content statement, shall not be smaller than 1 millimeter, except that if contained among other descriptive or explanatory information, the script, type, or printing of the mandatory information shall be of a size substantially more conspicuous than that of the descriptive or explanatory information.

(3) Alcoholic content statements shall not appear in script, type, or printing larger or more conspicuous than 3 millimeters nor smaller than 1 millimeter on labels of containers having a capacity of 5 liters or less and shall not be set off with a border or otherwise accentuated.

(c) *English language.* All mandatory label information shall be stated on labels in the English language, except that the brand name, the place of production, and the name of the manufacturer, producer, blender, bottler, packer, or shipper appearing on the label need not be in the English language if the words “product of” immediately precede the name of the country of origin stated in accordance with customs requirements. Additional statements in foreign languages may be made on labels, if they do not in any way conflict with, or contradict the requirements of §§ 4.30 through 4.39.

(d) *Location of label.* Labels shall not obscure Government stamps nor be obscured thereby.

(e) *Labels firmly affixed.* All labels shall be affixed to containers of wine in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by §§ 4.30 through 4.39, if such information complies with the requirements of such sections and does not conflict with, nor in any manner qualify statements required by this part. In addition, information which is truthful, accurate, and specific, and which is neither disparaging nor misleading may appear on wine labels.

(g) *Representations as to materials.* If any representation (other than representations or information required by §§ 4.30 through 4.39 or percentage statements required or permitted by this part) is made as to the presence, excellence, or other characteristic of any ingredient in any wine, or used in its production, the label containing such representation shall state, in print, type, or script, substantially as conspicuous as such representation, the name and amount in percent by volume of each such ingredient.

(h) *Statement of contents of containers.* Upon request of the appropriate TTB officer, there shall be submitted a full and accurate statement of the contents of the containers to which labels are to be or have been affixed.

[T.D. ATF-53, 43 FR 37677, Aug. 23, 1978, as amended by T.D. ATF-66, 45 FR 40544, June 13, 1980; T.D. ATF-94, 46 FR 55095, Nov. 6, 1981; T.D. ATF-249, 52 FR 5955, Feb. 27, 1987; T.D. ATF-275, 53 FR 27046, July 18, 1988; T.D. ATF-312, 56 FR 31077, July 9, 1991]

#### § 4.38a Bottle cartons, booklets and leaflets.

(a) *General.* An individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container), or any written, printed, graphic, or other matter accompanying the bottle to the consumer buyer shall not contain any statement, design, device, or graphic, pictorial, or emblematic representation that is prohibited by §§ 4.30 through 4.39 on labels.

(b) *Sealed cartons.* If bottles are enclosed in sealed opaque coverings, cartons, or other containers used for sale at retail (other than a shipping container), such coverings, cartons, or other containers must bear all mandatory label information.

(c) *Other cartons.* (1) If an individual covering, carton, or other container of the bottle used for sale at retail (other than a shipping container) is so designed that the bottle is readily removable, it may display any information which is not in conflict with the label on the bottle contained therein.

(2) Cartons displaying brand names and/or designations must display such names and designations in their entirety—brand names required to be modified, e.g. by “Brand” or “Product

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of U.S.A.”, must also display such modification.

(3) Wines for which a truthful and adequate statement of composition is required must display such statement.

[T.D. ATF–36, 41 FR 47425, Oct. 29, 1976]

#### § 4.39 Prohibited practices.

(a) *Statements on labels.* Containers of wine, or any label on such containers, or any individual covering, carton, or other wrapper of such container, or any written, printed, graphic, or other matter accompanying such container to the consumer shall not contain:

(1) Any statement that is false or untrue in any particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer.

(5) Any statement, design, device or representation of or relating to any guarantee, irrespective of falsity, which the appropriate TTB officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) A trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, or any graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization; *Provided*, That this paragraph shall not apply to the use of the name of any person engaged in business as a producer, blender, rectifier, importer, wholesaler, re-

tailer, bottler, or warehouseman of wine, nor to the use by any person of a trade or brand name that is the name of any living individual of public prominence or existing private or public organization, provided such trade or brand name was used by him or his predecessors in interest prior to August 29, 1935.

(7) Any statement, design, device, or representation (other than a statement of alcohol content in conformity with § 4.36), which tends to create the impression that a wine:

(i) Contains distilled spirits;

(ii) Is comparable to a distilled spirit; or

(iii) Has intoxicating qualities.

However, if a statement of composition is required to appear as the designation of a product not defined in these regulations, such statement of composition may include a reference to the type of distilled spirits contained therein.

(8) Any coined word or name in the brand name or class and type designation which simulates, imitates, or which tends to create the impression that the wine so labeled is entitled to bear, any class, type, or permitted designation recognized by the regulations in this part unless such wine conforms to the requirements prescribed with respect to such designation and is in fact so designated on its labels.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or created the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base. Examples of such words are: “Manhattan,” “Martini,” and “Daquiri” in a class and type designation or brand name of a wine cocktail; “Cuba Libre,” “Zombie,” and “Collins” in a class and type designation or brand name of a wine specialty or wine highball; “creme,” “cream,” “de,” or “of” when used in conjunction with “menthe,” “mint,” or “cacao” in a class and type designation or a brand name of a mint or chocolate flavored wine specialty.

(b) *Statement of age.* No statement of age or representation relative to age (including words or devices in any